

AMENDED IN SENATE APRIL 19, 2006

SENATE BILL

No. 1809

Introduced by Senator Machado

February 24, 2006

~~An act to add Section 1102.6c to, and to add Article 1.3 (commencing with Section 1101) to Chapter 2 of Title 4 of Part 4 of Division 2 of, the Civil Code, and to add Section 33392.5 to the Health and Safety Code, relating to real property disclosures. An act to amend Section 33373 of, and to repeal and add Section 33456 of, the Health and Safety Code, relating to redevelopment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1809, as amended, Machado. ~~Real property disclosures; redevelopment.~~ *Redevelopment*; eminent domain.

Existing law governs eminent domain proceedings including those initiated by community redevelopment agencies. Existing law ~~also requires specified disclosures in connection with real property transfers~~ *a description of the land within a redevelopment project area and a statement that proceedings for the redevelopment of the project area have been instituted to be recorded with the county recorder of the county in which the project area is situated after the legislative body adopts a redevelopment plan. Existing law authorizes amendments to a redevelopment plan to be recorded as promptly as practicable following their adoption by the legislative body.*

~~This bill would require a specified disclosure statement in connection with the transfer of residential real property that is located in a redevelopment project area regarding whether the property may be subject to eminent domain proceedings, as specified. The bill would also require notice to a prospective purchaser in the case of a~~

~~transfer of any other real property, if that property is located within a redevelopment project area. The bill would also require a redevelopment agency to provide specified information regarding real property and redevelopment to an owner of the property or that owner's agent within 3 business days of receiving a written request for information. This bill would require the statement to be recorded not later than 60 days following adoption of a redevelopment plan or amendments to a redevelopment plan. The statement regarding plan adoption and the statement regarding amendments to the plan, if a plan amendment adds territory to the project area, would be required to contain a prominent heading in bold face type noting that the property that is the subject of the statement is located within a redevelopment project, a description of the provisions of the redevelopment plan that authorize the agency to use of the power of eminent domain, and a general description of any limitations on the use of the power of eminent domain contained in the redevelopment plan. For a redevelopment plan adopted on or before December 31, 2006, that authorizes the acquisition of property by eminent domain, the bill would require the agency, on or before December 31, 2007, to cause a revised statement to be recorded with the county recorder of the county in which the project area is situated containing all the above information. The bill would prohibit an agency from commencing an action in eminent domain until this statement is recorded with the county recorder. By imposing new duties on local government, the bill would create a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 33373 of the Health and Safety Code is
- 2 amended to read:
- 3 33373. ~~After~~ (a) Not later than 60 days after the adoption of
- 4 the redevelopment plan by the legislative body there shall be

1 recorded with the county recorder of the county in which the
2 project area is situated a description of the land within the project
3 area and a statement that proceedings for the redevelopment of
4 the project area have been instituted under this part. ~~Additional~~

5 *(b) If the redevelopment plan authorizes the agency to acquire*
6 *property by eminent domain, the statement required pursuant to*
7 *subdivision (a) shall contain the following:*

8 *(1) A prominent heading in bold face type noting that the*
9 *property that is the subject of the statement is located within a*
10 *redevelopment project.*

11 *(2) A general description of the provisions of the*
12 *redevelopment plan that authorize the use of the power of*
13 *eminent domain by the agency.*

14 *(3) A general description of any limitations on the use of the*
15 *power of eminent domain contained in the redevelopment plan,*
16 *including, without limitation, the time limit required by Section*
17 *33333.2.*

18 *(c) For a redevelopment plan adopted on or before December*
19 *31, 2006, that authorizes the acquisition of property by eminent*
20 *domain, the agency shall, on or before December 31, 2007,*
21 *cause a revised statement to be recorded with the county*
22 *recorder of the county in which the project area is located*
23 *containing all of the information required by subdivisions (a) and*
24 *(b).*

25 *(d) An agency shall not commence an action in eminent*
26 *domain until the statement required by this section is recorded*
27 *with the county recorder of the county in which the project area*
28 *is located.*

29 *(e) Additional recordation of documents may be effected*
30 *pursuant to Section 27295 of the Government Code.*

31 *SEC. 2. Section 33456 of the Health and Safety Code is*
32 *repealed.*

33 ~~33456. Amendments to a plan adopted pursuant to this article~~
34 ~~may be recorded in compliance with Section 27295 of the~~
35 ~~Government Code as promptly as practicable following adoption~~
36 ~~by the legislative body.~~

37 *SEC. 3. Section 33456 is added to the Health and Safety*
38 *Code, to read:*

39 *33456. (a) Not later than 60 days after the adoption of an*
40 *amendment to a redevelopment plan pursuant to this article there*

1 shall be recorded with the county recorder of the county in which
2 the project area is located a statement that the redevelopment
3 plan has been amended. If the amendment adds territory to the
4 redevelopment project area, the statement shall contain a
5 description of the added territory, a prominent heading in bold
6 face type noting that the property that is the subject of the
7 statement is located within a redevelopment project, a general
8 description of the provisions of the amended redevelopment plan,
9 if any, that authorize the use of the power of eminent domain by
10 the agency within the added territory, and a general description
11 of any limitations on the use of the power of eminent domain
12 within the added territory, including, without limitation, the time
13 limit required by Section 33333.2. If the amendment changes any
14 limitation on the use of eminent domain contained in the
15 redevelopment plan, the statement shall contain a description of
16 the land within the project area and a general description of the
17 change.

18 (b) An agency shall not commence an action in eminent
19 domain to acquire property located within territory added to a
20 project area by an amendment to a redevelopment plan until the
21 statement required by this section is recorded with the county
22 recorder of the county in which the project area is located.

23 (c) Additional recordation of documents may be effected
24 pursuant to Section 27295 of the Government Code.

25 ~~SECTION 1. Article 1.3 (commencing with Section 1101) is~~
26 ~~added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil~~
27 ~~Code, to read:~~

28
29 ~~Article 1.3. Redevelopment and Eminent Domain Disclosure~~
30

31 ~~1101. (a) The seller of real property shall, as soon as~~
32 ~~practical before the transfer of title, give written notice to a~~
33 ~~prospective purchaser if the real property is located within a~~
34 ~~redevelopment project area and the redevelopment plan for that~~
35 ~~redevelopment project area does not prohibit the community~~
36 ~~redevelopment agency from using the agency's power of eminent~~
37 ~~domain to acquire the real property.~~

38 ~~(b) This article does not apply to the transfer of residential~~
39 ~~property that is subject to a disclosure requirement pursuant to~~
40 ~~Article 1.5 (commencing with Section 1102).~~

~~(e) As used in this section, the following definitions apply:~~

~~(1) A “community redevelopment agency” refers to a redevelopment agency of a community as described in Section 33100 of the Health and Safety Code.~~

~~(2) A “redevelopment plan” refers to a plan for redevelopment as described in Sections 33020 and 33021 of the Health and Safety Code.~~

~~(3) A “redevelopment project area” means an area identified by a community redevelopment agency as a location for a redevelopment project as described in Section 33010 of the Health and Safety Code.~~

~~SEC. 2. Section 1102.6e is added to the Civil Code, to read:~~

~~1102.6e. (a) This section applies to all transfers of real property for which all of the following apply:~~

~~(1) The transfer is subject to this article.~~

~~(2) The property being transferred is located within a redevelopment project area pursuant to either the Community Redevelopment Law (Part 1 (commencing with Section 33000) or the Community Redevelopment Disaster Project Law (Part 1.5 (commencing with Section 34000) of Division 24 of the Health and Safety Code).~~

~~(3) The redevelopment plan does not prohibit the community redevelopment agency from using the agency’s power of eminent domain to acquire the property being transferred.~~

~~(b) In addition to any other disclosure required pursuant to this article, the seller of any real property subject to this section shall deliver to the prospective purchaser a copy of the following disclosure form:~~

~~REDEVELOPMENT AND EMINENT DOMAIN DISCLOSURE~~

~~—THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY DESCRIBED AS _____.~~

~~—THIS STATEMENT IS A DISCLOSURE IN COMPLIANCE WITH SECTION 1102.6e OF THE CIVIL CODE. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IT IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THAT THE PRINCIPAL(S) MAY WISH TO OBTAIN.~~

~~THIS PROPERTY IS LOCATED WITHIN THE _____ REDEVELOPMENT
PROJECT AREA THAT IS GOVERNED BY THE _____ COMMUNITY
REDEVELOPMENT _____ AGENCY.~~

~~THE REDEVELOPMENT PLAN FOR THIS REDEVELOPMENT
PROJECT AREA DOES NOT PROHIBIT THE COMMUNITY
REDEVELOPMENT AGENCY FROM USING THE AGENCY'S POWER
OF EMINENT DOMAIN TO ACQUIRE THIS PROPERTY.~~

~~BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN
PROFESSIONAL ADVICE ABOUT THIS COMMUNITY
REDEVELOPMENT AGENCY AND THE AGENCY'S POTENTIAL USE
OF EMINENT DOMAIN TO ACQUIRE THIS PROPERTY. A REAL
ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF
YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.~~

~~I/WE ACKNOWLEDGE THE RECEIPT OF A COPY OF THIS
STATEMENT.~~

~~Seller _____ Date _____ Buyer _____ Date _____~~

~~Seller _____ Date _____ Buyer _____ Date _____~~

~~Agent (Broker
Representing Seller) _____ By _____ Date _____
(Please Print) (Associate Licensee or Broker
Signature)~~

~~Agent (Broker obtaining
the offer) _____ By _____ Date _____
(Please Print) (Associate Licensee or Broker
Signature)~~

~~SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH
THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST
THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF
DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO
PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU
MUST ACT WITHIN THE PRESCRIBED PERIOD.~~

~~SEC. 3. Section 33392.5 is added to the Health and Safety
Code, to read:~~

~~33392.5. (a) Within three business days of receiving from the
owner of real property or the property owner's agent a written
request for information that identifies the real property by either~~

1 ~~the street address or the assessor's parcel number, an agency~~
2 ~~shall provide the owner or the agent a written statement that~~
3 ~~declares:~~

4 ~~(1) Whether that real property is located within a~~
5 ~~redevelopment project area.~~

6 ~~(2) Whether the redevelopment plan for that project area~~
7 ~~prohibits the agency from using the agency's power of eminent~~
8 ~~domain to acquire that real property.~~

9 ~~(b) An agency may charge a fee to receiver any costs incurred~~
10 ~~pursuant to this section. The fee shall not exceed the reasonable~~
11 ~~cost of providing the service for which the fee is charged. The~~
12 ~~agency shall impose the fees pursuant to Section 66016 of the~~
13 ~~Government Code.~~

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of
19 Section 17556 of the Government Code.